## MRS. KATHRYN M. BAKER

JANUARY 31, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. Lane, from the Committee on the Judiciary, submitted the following

# REPORT

[To accompany H. R. 5526]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5526) for the relief of Mrs. Kathryn M. Baker, having considered the same, report favorably thereon with amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 2, line 1, after the word "Act", strike out the following language: "in excess of 10 per centum thereof".

## PURPOSE

The purpose of the proposed legislation is to pay Mrs. Kathryn M. Baker, of Bethel Island, Calif., the sum of \$691.20 in full settlement of all claims against the United States on account of the death of her former husband. S. Sgt. James C. Sipes, who was killed in action on June 10, 1944.

#### STATEMENT OF FACTS

Sergeant Sipes married Kathryn Ann Meagher on May 20, 1943, in Oregon, Mo. On June 10, 1944, he was killed in action in Normandy. On October 7, 1944, information and forms relating to a claim for 6 months' gratuity pay payable because of the death of Sergeant Sipes were sent to his father. His father returned the forms, stating that his son was survived by a widow, who he believed had remarried, but was unable to give her address.

Sergeant Sipes' widow is the beneficiary of this bill, Mrs. Kathryn M. Baker. It appears that at the time of Sergeant Sipes' death she was receiving an allotment from him, but in spite of the communication by Mr. Sipes referred to above, calling the attention of the Army to the widow's existence, she was apparently not sent the

forms and information concerning the payment of the death gratuity. On June 9, 1953, the widow did make inquiry concerning the gratuity payment. However by the time that the properly executed forms were submitted to the Department the 10-year period for the sub-

mission of the claim had expired.

In the light of these circumstances the committee feels that Mrs. Baker should be accorded the relief provided for in the bill. It appears that through some oversight she did not receive the proper notification concerning her rights to the gratuity pay, and that when she did receive the information it was toward the end of the 10-year limitation period. It appears that she did not actually receive the forms until August 24, 1954, and at that time the 10-year period had already run since her husband's death. Therefore the committee recommends that the bill be favorably considered.

The report of the Department of the Army which raises no objection

to the enactment of this bill is as follows:

DEPARTMENT OF THE ARMY, Washington 25, D. C., December 6, 1955.

Hon. EMANUEL CELLER,

Chairman, Committee on the Judiciary,

House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your letter enclosing a copy of H. R. 5526, 84th Congress, a bill for the relief of Mrs. Kathryn M. Baker, and requesting a report on the merits of the bill.

The Department of the Army has considered the above-mentioned bill, which

provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Kathryn M. Baker, of Bethel Island, California, the sum of \$691.20. The payment of such sum shall be in full settlement of all claims of the said Kathryn M. Baker against the United States on account of the death of her former husband, Staff Sergeant James C. Sipes (serial number 37232567), who was killed in action on June 10,

Records of the Department of the Army show that James C. Sipes was born in Forbes, Mo., on April 8, 1922; that he commenced active duty in the Army in enlisted status on October 17, 1940, being assigned service No. 37232567; that he advanced to the grade of staff sergeant on January 7, 1944; and that he was killed

in action in Normandy on June 10, 1944.

On February 3, 1943, while stationed at Fort Sill, Okla., Sergeant Sipes applied for national life insurance in the amount of \$5,000, payable to his parents, Mr. and Mrs. James A. Sipes, of Forest City, Mo. Sergeant Sipes was married to Kathryn Ann Meagher on May 20, 1943, in Oregon, Mo., and on June 1, 1943, he increased the amount of his national service life insurance from \$5,000 to \$10,000 without changing the beneficiary thereof. On September 13, 1943, Sergeant Sipes requested a family allowance to his wife, Mrs. Kathryn Ann Sipes, and it was granted effective September 1, 1943. This family allowance was discontinued effective June 30, 1944, by reason of the death of Sergeant Sipes.

On October 7, 1944, information and forms relating to a claim for 6 months'

gratuity pay accruing by reason of the death of Sergeant Sipes and payable under the authority of the act of December 17, 1919 (41 Stat. 367), as amended (10 U. S. C. 903), were forwarded to his father as beneficiary designated to receive such payment. However, by letter dated October 30, 1944, Mr. Sipes returned the forms unexecuted, stating that his son was survived by a widow who he believed had remarried, but he was unable to give her address.

Some time thereafter, by letter to this Department, dated June 9, 1953, Mrs.

Kathryn M. Walker stated as follows:

"On June 10, 1944, my husband S. Sgt. James Carroll Sipes was killed in action in Normandy. At that time I was drawing an allotment from him, however his insurance was made out to his parent, James A. Sipes, of Forest

City, Mo.
"I have just been informed that as his wife at the time of his death I should have
"I have just been informed that as his wife at the time of his death I should have received 6 months' pay as a gratuity payment. I never received this and I do not know if his parents did or not.

"I have since remarried and now reside in California. Could you advise me on

this matter?"

Mrs. Walker made further inquiry relating to this matter in July 1954. Claim forms for 6 months' gratuity pay were forwarded to her on August 24, 1954, and her claim therefor was submitted to this Department on or about September 1, 1954. This claim was administratively certified to the General Accounting Office on September 24, 1954, inasmuch as funds from which it was payable no longer were available for disbursement by this Department. This gratuity pay amounts to \$691.20.

By letter dated May 20, 1955, the General Accounting Office advised, perti-

nently, that-

"The records of this Office indicate that Mrs. Baker's claim [records of this Department show claimant's name as Mrs. Kathryn M. Walker] for this gratuity was not received in this Office within 10 years after the date of death of her late former husband. The act of October 9, 1940 \* \* \* is jurisdictional and precludes this Office from considering a claim unless presented here within the specified time limit. Since Mrs. Baker's claim could not be considered, it properly was returned to her in accordance with the provisions of the act."

The act of October 9, 1940 (54 Stat. 1061; 31 U.S. C. 71a), referred to in the

above-quoted letter, provides, pertinently, as follows:

"That every claim or demand \* \* \* against the United States cognizable by the General Accounting Office \* \* \* shall be forever barred unless such claim, bearing the signature and address of the claimant or of an authorized agent or attorney, shall be received in said office within ten full years after the date such claim first accrued \* \* \*.

"Sec. 2. Whenever any claim barred by section 1 shall be received in the General Accounting Office, it shall be returned to the claimant, with a copy of this Act, and such action shall be a complete response without further communi-

cation.'

The evidence in this case shows that on June 9, 1953, Mrs. Kathryn M. Walker made inquiry of this Department relating to a claim for 6 months' gratuity pay to which she was entitled by reason of her former husband's death on June 10, 1944. However, claim forms therefor were not forwarded to her until August 24, 1954, and her formal claim for such gratuity pay was not received by this Department until on or about September 1, 1954. Subsequently, on September 24, 1954, this claim was certified to the General Accounting Office, but it was denied for the reason that it had not been received in that Office within the 10-year statute of limitation set forth in the act of October 9, 1940, supra. Consequently, there is no method in law by which Mrs. Walker may receive this payment.

is no method in law by which Mrs. Walker may receive this payment.

In view of all the facts and circumstances of this case, the Department of the Army refrains from making any recommendation either for or against the enactment of this bill, preferring to leave to the equitable determination of the Congress the question of whether the relief proposed by this bill should be granted. If the Congress should determine that the claimant is equitably entitled to be awarded compensation in this case the Department of the Army would have no objection

to the enactment of this bill.

The cost of this bill, of enacted, will be \$691.20.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

CHARLES C. FINUCANE, Acting Secretary of the Army.

## AFFIDAVIT

Kathryn Meagher Baker, being duly sworn, deposes and says: that her name is Kathryn Meagher Baker. That prior to making this affidavit in 1954 she filed application with the United States Government for 6 months' gratuity payment due her as the surviving widow of S. Sgt. James C. Sipes, ASN 37232567, who was killed in action in Normandy on June 10, 1944.

That the soldier's service insurance was made payable to his father, James A.

Sipes, of Forest City, Mo.

That affiant first learned in 1953 that said application should have been made; that affiant then made inquiry to the Department of Army and in 1954 received forms that were duly executed.

This affidavit is made in connection with H. R. 5526 in the House of Repre-

sentatives before the Judiciary Committee.

KATHRYN MEAGHER BAKER, Affiant.

STATE OF CALIFORNIA,

County of Los Angeles, ss:

On this 5th day of January 1956, before me, the undersigned, a notary public named for said county and State, personally appeared Kathryn Meagher Baker, know to me to be the person whose signature is affixed to the written affidavit, and acknowledged to me that she executed same.

Witness my hand and official seal this 5th day of January 1956.

[SEAL] PHILIP S. SCHUTZ, Notary Public.

El Monte, Calif., September 1, 1954.

To Whom It May Concern:

I was married to James C. Sipes, 37232567, on May 20, 1943, in Oregon, Holt County, Mo. At the time of his death on June 10, 1944, in Europe, I was still his lawful wedded wife. There had been no divorce.

KATHRYN MEAGHER WALKER.

CENTER OFTE FORM IS EXECUTED

Subscribed and sworn to before me this 1st day of September 1954.

JACK H. PORTER, Notary Public in and for the County of Los Angeles, State of California.

WAR DEPARTMENT

CLAIM FOR AMOUNTS DUE DECEASED PERSONNEL OF THE ARMED FORCES OF THE UNITED STATES (Act of June 1906, 34 Stat. 750)

WAR DEPARTMENT Finance Department Form No. 14 Approved by Compiroller General November 2, 1943

Danes C. Sipis 37-232-567

| 1. I/WE  | , the undersig | ned claimant(s),   | certify th | nat at the | time of c | leath,         |   |
|----------|----------------|--------------------|------------|------------|-----------|----------------|---|
| games    | C. Sipes       | that I (am) /WE (a | s a member | of the mi  | litary or | naval forces'o | f |
| the Unit | ed States and  | that I (am) /WE(a  | re) the M  | vidou      | - 01      | the deceased   |   |

2. That the deceased is survived (except as otherwise indicated) by the following: (a) Name of widow, if none, so state.

Kathryn M. Walker 12136 E. Finewer El Morts.

(b) IF NO WIDOW SURVIVES, ENTER BELOW:

(1) The name, age and address of each living child of the deceased. If none, so state.

| NAME OF CHILD | AGE   | ADDRESS                 |
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(2) The name of each dead child of the deceased who left any children now living. If none, so state

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|                    |                    | Land Street |

IF NO WIDOW, CHILD, OR GRANDCHILD SURVIVES, ENTER BELOW THE NAME AND ADDRESS OF PACH DADENT

| NAME OF PARENT | ADDRESS UNIVERSITY OR |
|----------------|-----------------------|
| MOTHER         |                       |
| FATHER         |                       |
|                |                       |

Has father abandoned support of family? State YES or NO\_

- 21-

- (d) IF NO WIDOW, CHILD, GRANDCHILD OR PARENT SURVIVES, ENTER BELOW:
  - The name, age and address of each living brother and sister of the deceased. If none, so state.

| NAME OF BROTHER OR SISTER | AGE | ADDRESS |
|---------------------------|-----|---------|
|                           |     |         |
|                           |     |         |
|                           |     |         |
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(2) The name of each dead brother or sister of the deceased who left children now living and the names, ages and addresses of such children. If none, so state.

| NAME OF DEAD BROTHER OR SISTER | NAME OF LIVING CHILD | AGE | ADDRESS |
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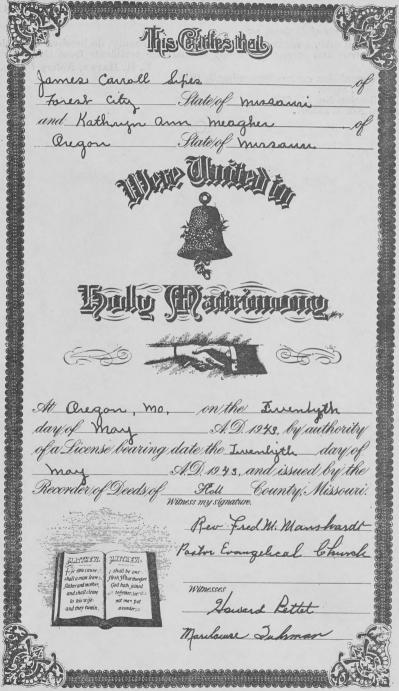
 Claim is hereby made for any amounts found due the deceased in the settlement of his/her account.

We, the undersigned claimant(s) and witnesses, certify, under all penalties, fines, and forfeitures imposed by law for the making of false or fraudulent claims against the United States or the making of false statements in connection therewith, that the statements made herein have been examined by each of us and that such statements are true to the best of our knowledge and belief.

| TWO SUPPORTING WITNESSES ARE REQUIRED  | Kethryn M. Welker                          |
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| 217 no new our monlay Pork             | (Signature of Claimant)                    |
| mo horal Barker V.                     | (Signature of Claimant)                    |
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| (Address) Calar                        | (Address)                                  |

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FEBRUARY 1944.

State of Missouri, County of Jackson, ss:

I, E. H. Hapke, a notary public in and for said county, do hereby certify that this is a true and correct photocopy of marriage certificate from the original. E. H. HAPKE, Notary Public.

My commission expires September 3, 1945. James C. Sipes. Application No. 3162232. Serial No. 37232567.